

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PC 06 359 B	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2005/002740	International filing date (day/month/year) 15 March 2005 (15.03.2005)	Priority date (day/month/year) 25 March 2004 (25.03.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant NEOPERL GMBH			

- This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
- This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.
- This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application
- The international Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70 Form PCT/IB/373 (January 2004)	Date of issuance of this report 17 March 2009 (17.03.2009)
	Authorized officer Yolaine Cussac e-mail: pt05.pct@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

TRANSLATION

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference PC 06 359 B		Date of mailing (day/month/year) see form PCT/ISA/210
FOR FURTHER ACTION See paragraph 2 below		
International application No. PCT/EP2005/002740	International filing date (day/month/year) 15.03.2005	Priority date (day/month/year) 25.03.2004
International Patent Classification (IPC) or both national classification and IPC E03C1/084		
Applicant NEOPERL GMBH		

1 This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2 FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/IEP	Authorized officer
Facsimile No.	Telephone No.

Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/002740

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material
- ☐ a sequence listing
- ☐ table(s) related to the sequence listing
- b. format of material
- ☐ in written format
- ☐ in computer readable form
- c. time of filing/furnishing
- ☐ contained in the international application as filed.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCT/EP2005/002740
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement	
1. Statement		
Novelty (N)	Claims 4, 5, 10, 11, 12, 13, 14	YES
	Claims 1-3, 6-9, 15, 16	NO
Inventive step (IS)	Claims 11, 14	YES
	Claims 1-10, 12, 13, 15, 16	NO
Industrial applicability (IA)	Claims 1-16	YES
	Claims	NO
2. Citations and explanations:		
<p>1. Reference is made to the following documents:</p> <p style="margin-left: 40px;">D1: DE 32 05 205-A</p> <p style="margin-left: 40px;">D2: EP 0 190 965-A</p> <p>2. The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of independent claims 1 and 3 is not novel (PCT Article 33(2)).</p> <p>2.1 Before dealing with the novelty of the above-mentioned claims, reference is made to the following clarity problems (PCT Article 6).</p> <p>2.1.1</p> <p style="margin-left: 40px;">The subject matter of independent claim 1 appears to be an aerator. It is assumed that a plumbing fixture with its water outlet does not form part of the invention, even though the aerator "is fixed" thereto. The preamble of claim 1 does not disclose any features of the aerator.</p> <p style="margin-left: 40px;">It is likewise unclear whether an "outer ring"</p>		

Form PCT/ISA/237 (Box No. V) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/002740

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability:
citations and explanations supporting such statement

should form part of the invention: the outer ring is
"fixed" to the outlet end of the water outlet.

2.1.2

Independent claim 3 is unclear. Wording such as
"in particular according to claim 1"
should be deleted.

Claim 3 is in fact an independent claim. As a
result, the present set of claims includes too many
independent claims in the same claim category.
There is no unity of invention (PCT Rule 13.1 and
13.2) between the present claim 1 and the subject
matter of independent claim 3 since claim 1 does not
disclose a "ball joint" or a corresponding feature.

2.1.3

Claims 4 to 5 relate to a feature which has
previously been disclosed as optional: a "screwed-
in" connection has not yet been claimed.

2.1.4

Claim 6 specifies features for "the ball", even
though claims 1 and 2 do not refer to a "ball joint"
or directly to a "ball". Corresponding problems are
repeated in the present set of claims.

2.2 In so far as the subject matter of claims 1 to 16
can be understood, the following is stated:

2.2.1

Documents D1 and D2 disclose aerators in a tap, and
the aerators can be pivoted according to claim 1 (in

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/002740

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

this respect, see the passages in the search report).

The subject matter of independent claim 1 is therefore not novel.

2.2.2

The subject matter of independent claim 3 is likewise known from documents **D1 and D2**. Both documents disclose an aerator which is completely or at least partially mounted within a ball of a ball joint. An outer ring, where the ball is mounted, can be fixed in an outlet end of the water outlet (at this point, reference is again made to the passages in the search report).

The subject matter of independent claim 3 is therefore likewise not novel.

2.2.3

The additional features of dependent claims **2, 6-9, 15 and 16** are also known from document **D1**, and therefore the subject matter of these claims is not novel. Accordingly, these claims likewise do not meet the requirements of PCT Article 33(2).

2.2.4

Dependent claims **4, 5, 10, 12 and 13** do not contain any additional features which, in combination with the features of any claim to which they refer, lead to a subject matter which involves an inventive step with respect to the citations mentioned in the present procedure. This is because the additional features of these claims are either already known

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

from documents D1 or D2 or are evident as an obvious combination of features from the citations mentioned in the present procedure or concern minor structural modifications which are part of the routine practice of a person skilled in the art.

2.2.5

The combination of features in dependent claim 11 is neither known nor obvious from the available prior art. In so far as it is dependent on claim 11, **claim 14** likewise appears to be admissible.